

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF INTEGRATED RESOURCE)	
PLANNING FOR THE PROVISION OF STANDARD)	
OFFER SUPPLY SERVICE BY DELMARVA POWER &)	
LIGHT COMPANY UNDER 26 DEL. C. § 1007(c))	
& (d): REVIEW AND APPROVAL OF THE REQUEST)	PSC DOCKET NO. 06-241
FOR PROPOSALS FOR THE CONSTRUCTION OF)	
NEW GENERATION RESOURCES UNDER)	
26 DEL. C. § 1007(d))	
(OPENED JULY 25, 2006))	

ORDER NO. 7247

This 7th day of August, 2007, the Delaware Public Service Commission (the "Commission") determines and Orders the following:

1. By Order No. 7199 (May 22, 2007) ("the Order"), the Commission, the Delaware Energy Office, the Office of Management and Budget, and the Controller General (collectively "the State Agencies") directed Delmarva Power & Light Company ("Delmarva") to negotiate with Bluewater Wind LLC for a wind power purchase agreement ("PPA") and with both Conectiv Energy Supply, Inc. and NRG Energy, Inc. for a backup generation PPA. The State Agencies further directed Delmarva to "report back to the State Agencies at least weekly regarding the progress and status of the negotiations."¹

2. On June 27, 2007, Jeremy Firestone filed a Motion Seeking Clarification of Delmarva Power's Reporting Requirements Under Order No. 7199. In his motion, Dr. Firestone asked the State Agencies to order Delmarva to provide information on a weekly basis regarding the

¹See Order No. 7199 (May 22, 2007) at ¶ 57.

issues discussed during the long-term generation PPA negotiations, the issues on which progress was made, the issues resolved, the issues on which no progress was made, and issues yet to be discussed in the course of negotiations. According to Dr. Firestone, Paragraph 57 of the Order requires Delmarva to provide this detailed information in order to keep the State Agencies and public meaningfully informed. Dr. Firestone also alleged that Delmarva's "total information blackout is significantly more than is required to maintain any necessary confidentiality."

3. On July 5, 2007, the Public Service Commission Staff ("Staff") filed a response to Dr. Firestone's motion. Staff first argued that neither the plain language of Order No. 7199, nor the "Electric Utility Retail Customer Supply Act of 2006" ("the EURCSA"), required Delmarva to provide detailed information from the PPA negotiations to the public.

4. Staff further argued that the bidding parties must be free to negotiate without fear of exposure of confidential financial and commercial information in order to craft a PPA that provides reliable and reasonably priced energy to Delmarva's Standard Offer Service ("SOS") customers. Specifically, Staff argued that disclosure of the detailed information requested by Dr. Firestone would allow competitors in the generation industry to employ the information to develop favorable negotiation tactics in similar bidding procedures in other jurisdictions.

5. On July 24, 2007, the Commission deliberated in open session regarding Dr. Firestone's motion and Staff's response. The

Commission determined that the Order and the EURCSA conferred exclusive authority on the State Agencies to oversee and make a final determination in the RFP process, which includes the PPA negotiations. The Commission stressed that neither the Order nor the EURCSA allow the public to participate in the actual evaluation of the RFP.

6. The Commission further determined that disclosure of the information requested by Dr. Firestone poses a substantial likelihood of competitive harm to the bidders. The Commission observed the importance of preserving confidentiality during the negotiations in order to move forward in the RFP process and ultimately provide Delmarva SOS customers with reliable, clean, and reasonably priced energy.

Now, therefore, **IT IS ORDERED:**

1. That, for the reasons stated above, Dr. Firestone's Motion Seeking Clarification of Delmarva Power's Reporting Requirements Under Order No. 7199 is denied.

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

PSC Docket No. 06-241, Order No. 7247 Cont'd.

Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary